



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549-4561



12027024

May 17, 2012

Received SEC

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Washington, DC 20549

John J. Jenkins
Calfee, Halter & Griswold LLP
jjenkins@calfee.com

Re: The J.M. Smucker Company
Incoming letter dated April 12, 2012

Act: 1934
Section: 14a-8
Rule: 5-7-12
Public
Availability: 5-7-12

Dear Mr. Jenkins:

This is in response to your letter dated April 12, 2012 concerning the shareholder proposal submitted to J.M. Smucker by Gerald R. Armstrong. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Ted Yu
Senior Special Counsel

Enclosure

cc: Gerald R. Armstrong

FISMA & OMB Memorandum M-07-16

May 17, 2012

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: The J.M. Smucker Company
Incoming letter dated April 12, 2012

The proposal requests that the board take the steps necessary to declassify the board of directors.

There appears to be some basis for your view that J.M. Smucker may exclude the proposal under rule 14a-8(i)(11). We note that the proposal is substantially duplicative of a previously submitted proposal that will be included in J.M. Smucker's 2012 proxy materials. Accordingly, we will not recommend enforcement action to the Commission if J.M. Smucker omits the proposal from its proxy materials in reliance on rule 14a-8(i)(11).

Sincerely,

Matt S. McNair
Special Counsel

DIVISION OF CORPORATION FINANCE INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.



VIA FEDERAL EXPRESS

Since 1897

March 26, 2012

Gerald R. Armstrong

FISMA & OMB Memorandum M-07-16

Dear Mr. Armstrong:

It was a pleasure talking to you last week. As discussed, enclosed please find a copy of the shareholder proposal submitted by the Los Angeles County Employees Retirement Association on January 5, 2012 (the "LACERA Proposal"). The LACERA Proposal will be included in the proxy statement for our annual shareholders' meeting to be held in August 2012. Since your Board declassification proposal, which was submitted on March 5, 2012, substantially duplicates the LACERA Proposal, we respectfully request that you agree to withdraw your shareholder proposal by executing the enclosed copy of this letter and returning it to my attention.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Peter O. Farah

Senior Corporate Attorney, Securities and Mergers and Acquisitions

ACKNOWLEDGED AND AGREED ON MARCH __, 2012:

GERALD R. ARMSTRONG

Enclosures



Calfee, Halter & Griswold LLP
Attorneys at Law

The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114-1607
216.622.8200 Phone
calfee.com

April 12, 2012

Via Electronic Mail
shareholderproposals@sec.gov

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: The J. M. Smucker Company — Omission of Shareholder Proposal Submitted by Gerald R. Armstrong — Securities Exchange Act of 1934, as amended — Rule 14a-8

Ladies and Gentlemen:

On behalf of The J. M. Smucker Company, an Ohio corporation (the “Company”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we respectfully request that the Staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) concur with the Company’s view that the shareholder proposal (the “Proposal”) submitted by Gerald R. Armstrong (the “Proponent”), received on March 5, 2012, may properly be omitted from the proxy materials (the “Proxy Materials”) to be distributed by the Company in connection with its 2012 annual meeting of shareholders (the “2012 Annual Meeting”), because the Company previously received a substantially duplicative proposal which it will include in its Proxy Materials.

Pursuant to Rule 14a-8(j), we have enclosed the Proposal and provided the following explanation of the grounds upon which the Company deems omission of the Proposal to be proper. Furthermore, pursuant to Rule 14a-8(j), a copy of this letter is being sent to notify the Proponent of the Company’s intention to omit the Proposal from its Proxy Materials.

I. The Proposals.

On January 5, 2012, the Company received a shareholder proposal for inclusion in its Proxy Materials (the “Prior Proposal”) and, together with the Proposal, the “Proposals”) submitted by the Los Angeles County Employees Retirement Association requesting that the Company’s board of directors (the “Board”) take “all necessary steps . . . to eliminate the classification of the Board of Directors and to require that all directors elected at or after the annual meeting held in 2013 be elected on an annual basis” Two months later, on March 5, 2012, the Company received the Proposal, which also requests that the Board take “the steps necessary to eliminate classification of terms of the Board of Directors to require that all Directors stand for election annually”

The Prior Proposal, received January 5, 2012 and attached hereto as Exhibit A, includes the following language:

RESOLVED, that shareholders of The J. M. Smucker Company urge the Board of Directors to take all necessary steps (other than any steps that must be taken by shareholders) to eliminate the classification of the Board of Directors and to require that all directors elected at or after the annual meeting held in 2013 be elected on an annual basis. Implementation of this proposal should not prevent any director elected prior to the annual meeting held in 2013 from completing the term for which such director was elected.

The Proposal, received March 5, 2012 and attached hereto as Exhibit B¹, includes the following language:

RESOLUTION

That the shareholders of THE J. M. SMUCKER COMPANY request its Board of Directors to take the steps necessary to eliminate classification of terms of the Board of Directors to require that all Directors stand for election annually. The Board declassification shall be completed in a manner that does not affect the unexpired terms of the previously-elected Directors.

II. Basis for Exclusion.

The Proposal may be excluded under Rule 14a-8(i)(11) because it substantially duplicates the Prior Proposal, which was previously submitted to the Company by another proponent, and which will be included in the Proxy Materials.

Rule 14a-8(i)(11) provides that a company may exclude a shareholder proposal if "the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting." The Commission has stated that the purpose of the exclusion is to "eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." *Exchange Act Release No. 12999* (November 22, 1976).

When two substantially duplicative proposals are received by a company, the Staff has indicated that the company must include the first-received proposal in its proxy materials, unless that proposal may otherwise be excluded. *See, e.g., Wells Fargo & Co.* (February 8, 2011) and *Great Lakes Chemical Corp.* (March 2, 1998). A company does not have the option of selecting between

¹ Exhibit B also includes copies of all correspondence with the Proponent.

Calfee, Halter & Griswold LLP

U.S. Securities and Exchange Commission

April 12, 2012

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duplicative proposals; rather, it must include in its proxy materials the first proposal it received. *See, e.g., Wells Fargo & Co.* (February 5, 2003).

The standard applied in determining whether proposals are substantially duplicative is whether the proposals present the same "principal thrust" or "principal focus." *See Pacific Gas & Electric Co.* (February 1, 1993). The Prior Proposal and the Proposal clearly have the same principal thrust and focus because both Proposals request the Board to take the steps necessary to eliminate the classification of the Board and require that all directors be elected annually. Not only do the Proposals have the same principal thrust and focus, but in fact the wording of each of the Proposals is substantially the same. The Proposals even include substantially similar language concerning the effect of the adoption of the Proposals on previously elected directors. As such, Rule 14a-8(i)(11) permits exclusion of the Proposal.

III. Proponent Verbally Agreed to Withdraw His Proposal.

After receiving the Proposal, the Company contacted the Proponent to inform him that it had already received a substantially similar proposal from another proponent. Upon learning of the substantially similar proposal, the Proponent verbally agreed to withdraw his Proposal. However, subsequent attempts by the Company to have the Proponent formally acknowledge his withdrawal in writing have been unsuccessful (*see, e.g.,* the Company's March 26 2012 letter to Mr. Armstrong included in Exhibit B hereto). In light of the approaching deadline for submitting this no action request, and since it has received no response from the Proponent as of the date of this letter, the Company has been forced to submit this no action request to formally exclude the Proposal from its Proxy Materials.

IV. Conclusion and Request for Relief.

For the reasons set forth above, the Company respectfully requests that the Staff indicate that it will not recommend enforcement action to the Commission if the Company omits the Proposal from the Proxy Materials for the Company's 2012 Annual Meeting.

Should you require further information or if there are any questions concerning the matters set forth above, please do not hesitate to contact me ((216) 622-8507; jjenkins@calfee.com) or Greg Harvey ((216) 622-8253; gharvey@calfee.com).

Very truly yours,



John L. Jenkins

cc: Jeannette Knudsen
Peter Farah

Exhibit A



Los Angeles County Employees Retirement Association

300 N. Lake Ave., Pasadena, CA 91101 ■ Mail to: P.O. Box 7060, Pasadena, CA 91109-7060

626/564-6000

January 5, 2012

VIA EMAIL AND FEDEX
RECEIPT CONFIRMATION REQUESTED

The J. M. Smucker Company
1 Strawberry Lane
Orrville, OH 44667
Attention: Corporate Secretary

Re: Shareholder Proposal for the 2012 Annual Meeting

The Los Angeles County Employees Retirement Association ("LACERA"), has continuously held at least \$2,000 in market value of the common shares of The J. M. Smucker Company (the "Company") for more than one year as of the date hereof and intends to continue to hold those securities through the date of the Company's 2012 annual meeting of shareholders (the "Annual Meeting"). Pursuant to Rule 14a-8 promulgated under the Securities Exchange Act of 1934, LACERA hereby submits the attached shareholder proposal and supporting statement (the "Proposal") for inclusion in the Company's proxy materials and for presentation to a vote of shareholders at the Annual Meeting.

The Harvard Law School Shareholder Rights Project (the "SRP") has agreed to represent and advise LACERA in connection with the Proposal. LACERA hereby authorizes the SRP to act on behalf of LACERA in relation to the Proposal, including, without limitation, forwarding the Proposal to the Company, corresponding with the Company and the Securities and Exchange Commission with respect to the Proposal, engaging with the Company to reach a negotiated outcome, withdrawing the Proposal, presenting the Proposal, or arranging for its presentation by a designee of the SRP, at the Annual Meeting. This authorization does not grant the SRP the power to vote any shares owned by LACERA.

Please promptly acknowledge receipt of the Proposal, and direct all subsequent written communications relating to the Proposal, to Professor Lucian Bebchuk, Director, The Harvard Law School Shareholder Rights Project, 1545 Massachusetts Avenue, Cambridge, MA 02138, with an electronic copy to director@srp.law.harvard.edu and a second electronic copy to djohnson@lacera.com.

Sincerely,

Dale Johnson
Senior Investment Analyst



Los Angeles County Employees Retirement Association

300 N. Lake Ave., Pasadena, CA 91101 • Mail to: P.O. Box 2060, Pasadena, CA 91109-7060

626/564-6000

PROPOSAL TO REPEAL CLASSIFIED BOARD

RESOLVED, that shareholders of The J. M. Smucker Company urge the Board of Directors to take all necessary steps (other than any steps that must be taken by shareholders) to eliminate the classification of the Board of Directors and to require that all directors elected at or after the annual meeting held in 2013 be elected on an annual basis. Implementation of this proposal should not prevent any director elected prior to the annual meeting held in 2013 from completing the term for which such director was elected.

SUPPORTING STATEMENT

This resolution was submitted by the Los Angeles County Employees Retirement Association. The Harvard Law School Shareholder Rights Project represented and advised the Los Angeles County Employees Retirement Association in connection with this resolution.

The resolution urges the board of directors to facilitate a declassification of the board. Such a change would enable shareholders to register their views on the performance of all directors at each annual meeting. Having directors stand for elections annually makes directors more accountable to shareholders, and could thereby contribute to improving performance and increasing firm value.

Over the past decade, many S&P 500 companies have declassified their board of directors. According to data from FactSet Research Systems, the number of S&P 500 companies with classified boards declined by more than 50%; and the average percentage of votes cast in favor of shareholder proposals to declassify the boards of S&P 500 companies during the period January 1, 2010 – June 30, 2011 exceeded 75%.

The significant shareholder support for proposals to declassify boards is consistent with empirical studies reporting that classified boards could be associated with lower firm valuation and/or worse corporate decision-making. Studies report that:

- Classified boards are associated with lower firm valuation (Bebechuk and Cohen, 2005; confirmed by Paley (2007) and Frakes (2007));
- Takeover targets with classified boards are associated with lower gains to shareholders (Bebechuk, Coates, and Subramanian, 2002);
- Firms with classified boards are more likely to be associated with value-decreasing acquisition decisions (Masulis, Wang, and Xie, 2007); and
- Classified boards are associated with lower sensitivity of compensation to performance and lower sensitivity of CEO turnover to firm performance (Paley, 2007).

Please vote for this proposal to make directors more accountable to shareholders.

Exhibit B

FISMA & OMB Memorandum M-07-16

March 5, 2012

Ms. Jeannette L. Knudsen,
Corporate Secretary
THE J. M. SMUCKER COMPANY
One Strawberry Lane
Orrville, Ohio 44667-0280

Greetings

Pursuant to Rule 14a-8 of the Securities and Exchange Commission, this letter is formal notice to the management of The J. M. Smucker Company, at the coming annual meeting in 2012, I, Gerald R. Armstrong, a shareholder for more than one year and the owner of in excess of \$2,000.00 worth of voting stock, 219 shares, shares which I intend to own for all of my life, will cause to be presented from the floor of the meeting, the attached resolution.

I will be pleased to withdraw the resolution if a sufficient amendment is supported by the board of directors and presented accordingly.

I ask that, if management intends to oppose this resolution, my name, address, and telephone number--Gerald R. Armstrong, ***FISMA & OMB Memorandum M-07-16***

FISMA & OMB Memorandum M-07-16 ; together with the number of shares owned by me as recorded on the stock ledgers of the corporation, be printed in the proxy statement, together with the text of the resolution and the statement of reasons for introduction. I also ask that the substance of the resolution be included in the notice of the annual meeting and on management's form of proxy.

Yours for "Dividends and Democracy,"


Gerald R. Armstrong, Shareholder

RESOLUTION

That the shareholders of THE J. M. SMUCKER COMPANY request its Board of Directors to take the steps necessary to eliminate classification of terms of the Board of Directors to require that all Directors stand for election annually. The Board declassification shall be completed in a manner that does not affect the unexpired terms of the previously-elected Directors.

STATEMENT

In 2009, shareholders lost the benefits of cumulative voting -- a very valuable right -- in Directors' elections. The proponent believes that this loss should, in part, be replaced with the annual election of all Directors so that greater accountability can be afforded shareholders.

The current practice of electing only one-third of the directors for three-year terms is not in the best interest of the corporation or its shareholders. Eliminating this staggered system increases accountability and gives shareholders the opportunity to express their views on the performance of each director annually. The proponent believes the election of directors is the strongest way that shareholders influence the direction of any corporation and our corporation should be no exception.

As a professional investor, the proponent has introduced the proposal at several corporations which have adopted it. In others, opposed by the board or management, it has received votes in excess of 70% and is likely to be reconsidered favorably.

The proponent believes that increased accountability must be given our shareholders whose capital has been entrusted in the form of share investments especially during these times of great economic challenge.

Arthur Levitt, former Chairman of The Securities and Exchange Commission said, "In my view, it's best for the investor if the entire board is elected once a year. Without annual election of each director, shareholders have far less control over who represents them."

While management may argue that directors need and deserve continuity, management should become aware that continuity and tenure may be best assured when their performance as directors is exemplary and is deemed beneficial to the best interests of the corporation and its shareholders.

The proponent regards as unfounded the concern expressed by some that annual election of all directors could leave companies without experienced directors in the event that all incumbents are voted out by shareholders.

In the unlikely event that shareholders do vote to replace all directors, such a decision would express dissatisfaction with the incumbent directors and reflect the need for change.

If you agree that shareholders may benefit from greater accountability afforded by annual election of all directors, please vote "FOR" this proposal.



VIA FEDERAL EXPRESS

Since 1897

March 26, 2012

Gerald R. Armstrong

FISMA & OMB Memorandum M-07-16

Dear Mr. Armstrong:

It was a pleasure talking to you last week. As discussed, enclosed please find a copy of the shareholder proposal submitted by the Los Angeles County Employees Retirement Association on January 5, 2012 (the "LACERA Proposal"). The LACERA Proposal will be included in the proxy statement for our annual shareholders' meeting to be held in August 2012. Since your Board declassification proposal, which was submitted on March 5, 2012, substantially duplicates the LACERA Proposal, we respectfully request that you agree to withdraw your shareholder proposal by executing the enclosed copy of this letter and returning it to my attention.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Peter O. Farah

Senior Corporate Attorney, Securities and Mergers and Acquisitions

ACKNOWLEDGED AND AGREED ON MARCH __, 2012:

GERALD R. ARMSTRONG

Enclosures